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|  | <b>INDIANA DEPARTMENT OF CHILD SERVICES</b><br><b>TITLE IV-D POLICY MANUAL</b> |  |
|   | <b>Chapter 5: Department of Child Services (DCS) Child Welfare Cases</b>       | <b>Effective Date: 9/17/19</b>                       |
|   | <b>Section 4: Child Support Establishment and Enforcement</b>                  | <b>Version: 1.1</b><br><b>Revision Date: 9/17/19</b> |

## BACKGROUND

Many of the tasks associated with obtaining a child support order may be undertaken by either the Department of Child Services (DCS) attorney or the Title IV-D Prosecutor, if it is a Title IV-D case. It is not as important *who* petitions the court for the child support order as it is that the DCS attorney and Title IV-D Prosecutor coordinate their efforts in obtaining a child support order.

While the DCS attorney may take the lead in establishing the child support order, the Title IV-D Prosecutor is charged with the enforcement of the child support order in the Title IV-D case. The Title IV-D Prosecutor may request the assistance of DCS in establishing, modifying, or enforcing a child support order.<sup>1</sup>

It is important to note that child support orders are separate from reimbursement orders. For further discussion of reimbursement orders, see Section 7 of this Chapter.

## POLICY

When a child is removed from the home, DCS Child Welfare should determine if a child support order exists for the child.<sup>2</sup> This determination will result in one of three scenarios.

### 1. No Existing Child Support Order

A Child Support Obligation Worksheet shall be completed to determine each parent's Recommended Child Support Obligation.<sup>3</sup> The Child Support Obligation Worksheet shall be submitted to the JC court for the purpose of a financial order. Rather than each parent being ordered to pay the other parent the Recommended Child Support Obligation, the financial order is for the parents to pay DCS Child Welfare a child support obligation.<sup>4</sup> These payments are to be processed through the statewide child support system. In this situation, each parent is a non-custodial parent and DCS Child Welfare is the custodial party.

The judge may deviate from the Child Support Obligation Worksheet and is required to specify the reason for the deviation.<sup>5</sup> The judge may determine that a child support order of \$0.00 is appropriate for one or both parents. Any child support order that is

<sup>1</sup> IC 31-40-1-5(e)

<sup>2</sup> See also DCS Child Welfare Policy 2.20

<sup>3</sup> IC 31-40-1-5(c)(2)

<sup>4</sup> IC 31-40-1-5(c)(2)

<sup>5</sup> IC 31-40-1-5(c)(3)

expressed in a numeric value, which includes an order of \$0.00, is to be entered into the statewide child support system as a child support order.

## 2. Existing Child Support Order for this Child Only

If an existing child support order is in effect, the JC court shall notify the court that issued the child support order (JP/DR/DC court) that the JC court has assumed jurisdiction of the child support order.<sup>6</sup> The JC court shall order the support payments to be assigned, or redirected, to the DCS for the duration of the placement of the child and notify the JP/DR/DC court of the assignment.<sup>7</sup> The DCS attorney or Title IV-D Prosecutor may request the JC court to modify the child support order. Either the DCS attorney or Title IV-D Prosecutor shall seek a child support order against the other parent.

It is important that the JC court address support orders for both parents. The judge may deviate from the Child Support Obligation Worksheet and is required to specify the reason for the deviation.<sup>8</sup> The judge may determine that a child support order of \$0.00 is appropriate for one or both parents. Any child support order that is expressed in a numeric value, which includes an order of \$0.00, is to be entered into the statewide child support system as a child support order.

## 3. Existing Child Support Order for Multiple Children

When there is an existing child support order for multiple children and not all of the children have been removed from the home, the Title IV-D Prosecutor is strongly encouraged to request a modification of the existing child support order in the JP/DR/DC court. The existing child support order would be modified to reflect the current number of children remaining in the custodial party's home. In the JC court, the DCS attorney or Title IV-D Prosecutor shall proceed as though a new child support order is being requested as part of the financial order for the child(ren) removed from the home.

A child support order may be issued under either the previously existing JP/DR/DC cause number or the JC cause number.

There is no difference in the enforcement mechanisms available to the Title IV-D Prosecutor in these cases and any other Title IV-D case. However, the Title IV-D Prosecutor may wish to coordinate enforcement actions with the DCS attorney so that actions are not taken which may be detrimental to the child's welfare.

## REFERENCES

- [IC 31-40-1-5](#): Obligation of parent or guardian for costs of placement; remittance of support payments; enforcement

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<sup>6</sup> IC 31-40-1-5(b)

<sup>7</sup> IC 31-40-1-5(b)

<sup>8</sup> IC 31-40-1-5(c)(3)

## PROCEDURE

When establishing a child support obligation, the Child Support Obligation Worksheet is completed as usual to determine each parent's Recommended Support Obligation.<sup>9</sup> This amount for each parent is the presumptive amount each parent should pay in child support to DCS Child Welfare. The court may deviate from these amounts based on the child's best interest and other necessary obligations of the child's family.<sup>10</sup>

When a child support order is issued by the JC court and there was not a child support order in effect at the time of the child's placement, the Title IV-D Prosecutor, in a Title IV-D case, or the Clerk of Courts, in a non-IV-D case, should ensure the following is completed in the statewide child support system:

1. Verify the current child support obligation for each parent is correctly entered on the statewide child support system; and
2. Verify any ordered child support arrears are correctly entered on the statewide child support system.

Upon receiving an order assigning an existing child support order to DCS Child Welfare, the Title IV-D Prosecutor, in a Title IV-D case, or the Clerk of Courts, in a non-IV-D case, should ensure the following is completed in the statewide child support system:

1. Terminate the existing child support order in the case with the previous non-custodial parent and previous custodial party;
2. Verify the arrearage owed from the previous non-custodial parent to the previous custodial party is correct;
3. Verify the child support order on the case with the previous non-custodial parent and DCS Child Welfare is correctly entered; and
4. Verify any new child support order on the case with the previous custodial parent and DCS Child Welfare is correctly entered.

When there was an existing child support order for multiple children in the home and not all of the children were removed from the home, and the original child support order has been modified to reflect the removal of one or more children, the Title IV-D Prosecutor, in a Title IV-D case, or the Clerk of Courts, in a non-IV-D case, should ensure the following is completed in the statewide child support system:

1. Verify the current child support obligation for the child(ren) remaining in the home is correctly entered in the statewide child support system;
2. Verify the arrears balance in the original case is correctly entered in the statewide child support system;
3. Verify the new child support order for each parent for the child(ren) who were removed from the home is correctly entered in the statewide child support system; and
4. Verify any ordered child support arrears for the child(ren) who were removed from the home are correctly entered on the statewide child support system.

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<sup>9</sup> See Chapter 10: Child Support Order Establishment for more information.

<sup>10</sup> IC 31-40-1-5(c)(2)(A)

## FORMS AND TOOLS

1. [Child Support and Related Forms](#)
2. [CHINS Benchbook Forms, Financial Obligation Order](#)

## FREQUENTLY ASKED QUESTIONS

N/A

## RELATED INFORMATION

[DCS Child Welfare Policy: 2.20: Establishment of Child Support Orders](#)

## REVISION HISTORY

| Version     | Date               | Description of Revision |
|-------------|--------------------|-------------------------|
| Version 1   | December 8, 2015   | Final Approved Version. |
| Version 1.1 | September 17, 2019 | Added DC cause types.   |